This record is a partial extract of the original cable. The full text of the original cable is not available.

UNCLAS SECTION 01 OF 03 LIMA 004226

SIPDIS

SENSITIVE

DEPT FOR WHA/AND, WHA/EPSC, EB/CIP
COMMERCE FOR 4331/MAC/WH/MCAMERON AND KFERGUSON
USTR FOR KSCHAGRIN/JMCHALE
FCC INTERNATIONAL BUREAU FOR ETALAGA

E.O. 12958: N/A
TAGS: ECPS ETRD EINV ECON PE
SUBJECT: PUBLIC COMMENTS ON PERU'S MOBILE TERMINATION REGULATION

REF: A) LIMA 4108 and previous

Cable contains business sensitive information. Not for internet distribution. Please protect accordingly

¶1. (SBU) Summary. On September 26, Osiptel, Peru's telecommunications regulator, hosted a public audience to hear comments on its model for the reduction of mobile termination rates. Osiptel officials began the conference by explaining how the model was derived and justified the need for a three-year implementation period. Peru's four mobile carriers then expressed their views. TIM and AmericaMovil highlighted the need for increased investment to lower overall costs. Nextel pointed out flaws in Osiptel's model and called for a recalculation of the termination rate, as well as its immediate implementation. Telefonica argued that any mobile termination only benefits Nextel's clients and hurts Peruvians by stifling investment and development. During the public comment period, more than 25 people ranted against Osiptel, arguing that the regulator needed to take swifter actions to lower high mobile costs. End Summary.

Osiptel Explains Its Model

¶2. (U) After more than a year of anticipation, Osiptel, Peru's telecommunications regulator, held a public audience to entertain comments on its new mobile termination rate model, published July 20 (Refs A and B). Edwin San Roman, President of Osiptel, opened the conference of more than 300 people by noting that "Osiptel appreciates all public comments on its model, but that it will not bow to pressure from anyone, including foreign governments and specific companies." Jamie Cardenas, General Manager of Osiptel, then stepped attempting to smooth ruffled feathers in the audience by explaining that the goal of the regulation is to promote competition and investment in the telecommunications market.

¶3. (U) Jose Gallardo, Osiptel Manager of Regulatory Policy, then spent the next 30 minutes reviewing the model and explaining how Osiptel derived at its cost formula. Gallardo preempted his discussion by highlighting previous efforts by Osiptel to regulate the mobile sector. He noted that, with the proposed symmetrical regulation reflecting business costs and call traffic flows, mobile termination rates would drop by 41 percent. The cost model includes three basic factors: incremental long-term costs, common costs (10 percent for overhead, 33.5 percent for concession costs) and externalities (28 percent). After a very technical explanation of how Osiptel determined the value of these three factors for each company, Gallardo highlighted that Osiptel believes that mobile termination rates should fall to between $0.11-$0.13, after a three year implementation period.

¶4. (SBU) Gallardo justifyed the three-year implementation period by noting that an immediate reduction of mobile termination rates can cause distortion in the sector. Mobile termination rates, he indicated, help promote efficiency in price levels and help facilitate growth by providing capital for investment. While acknowledging that unnaturally high mobile termination rates can be perceived as a subsidy, Gallardo pointed out that Peru's mobile penetration levels increased dramatically over the last 10 years, due in part to companies setting mobile termination rates. Gallardo also noted that other countries, such as Australia, the UK, Spain, and Chile, implemented a gradual reduction of mobile termination rates over an average of four years.

The Companies Respond

¶5. (U) With the conclusion of Gallardo's presentation, the four mobile companies responded in turn to Osiptel's cost model. (Note: In reality, only three mobile providers --

Telefonica, AmericaMoviles and Nextel -- are operating in Peru. TIM Mobiles recently sold its operations to AmericaMoviles. Osiptel decided to grant AmericaMoviles two opportunities to react to its model. End Note.) Two representatives from AmericaMoviles initiated the comment period. Geraldo Soria, General Manager of AmericaMoviles, expressed that Osiptel should regulate mobile termination rates, but only to foment competitiveness. His presentation focused on the need to increase investment in Peru's telecommunications sector, which would drive down mobile costs. He also noted that, in purchasing TIM, AmericaMoviles assumes all of TIM's commitments and should therefore be granted the same treatment as TIM (with the highest mobile termination rate of $0.13 by 2009).

¶6. (SBU) Nextel's presentation highlighted the three flaws in Osiptel's cost model. First, the Nextel representative noted that Osiptel's regulation is not based on actual costs. He gave an example of Osiptel revaluing purchases included in the Nextel model to the detriment of Nextel's position (Ref A). Second, he highlighted that Osiptel's formula incorporates externalities, such as subsidies, which violates Peruvian telecommunications laws. Third, he noted that Osiptel's arguments in favor of a gradual reduction in mobile termination rates are flawed because if mobile termination rates only cover costs, there should be no distortion in the market. Additionally, by allowing unnaturally high mobile termination rates to continue over a three-year period, Osiptel, in effect, condones anti-competitive subsidies. Nextel requested that Osiptel review its model and incorporate three changes: eliminate externalities in determining the final rate, utilize real costs for all companies, and immediately reduce mobile termination rates.

¶7. (U) Telefonica, deviating from the other mobile carriers, expressed concern that regulation of mobile termination rates would only benefit Nextel's clients and international callers, not the majority of Peruvians. Telefonica's twenty-minute presentation proceeded to criticize Nextel and its business plan, noting that if Nextel were more competitive and not a next exporter of calls, its clients would not have to pay such high prices. Telefonica pointed out that 83 percent of all mobile calls made in Peru are made on-net, which are not affected by Osiptel's regulation. The company therefore extrapolated that only 13 percent of Peruvians (5 percent Nextel clients and 8 percent other) would benefit from any reduction.

¶8. (U) Telefonica continued, requesting that Osiptel review its model, not to further lower the mobile termination rate, but to increase it to at least $0.20. Telefonica claimed that Osiptel did not incorporate Telefonica's cost model (created by Charles River Associates) and undervalued the company's worth and overhead costs. Telefonica asserted that high mobile termination rates help finance future investment and expansion of services; by Osiptel reducing the rate, it is dooming Peru to decreased future investment in the mobile sector.

The Public Speaks

¶9. (U) Observers of the public hearing also had a chance to comment on Osiptel's rate. Econoff presented the U.S. Government position, arguing that Osiptel should implement regulations in a shorter timeframe. Econoff also highlighted Peru's international commercial commitments to administer services in a transparent and non-discriminatory manner. The majority of observers commented that mobile termination rates are too high and that Osiptel's regulation did not go far enough to reduce costs for the common Peruvian. Others highlighted the need for Osiptel to implement the model immediately. Congressman Yohny Lescano opined that Telefonica's monopoly creates higher prices and that Osiptel should regulate Telefonica to encourage improved competition in the market.

Comment: Headed in the Right Direction

¶10. (SBU) The comments conveyed at the public hearing show that many Peruvians, other than those who work for Telefonica, are unhappy with high mobile prices and the lack of regulation by Osiptel. After the four-hour hearing concluded, Osiptel officials appeared dismayed and noted that they will have to incorporate some of these comments into the model before any final regulation. We expect that Osiptel will reduce its timeframe for implementation to two years, perhaps less. It is unclear whether Osiptel will recalculate its formula to incorporate real costs of companies. Vice Minister of Communications Juan Pacheco will encourage Osiptel to reduce the overall termination rate.

STRUBLE